



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 11, 2014

1411-SE-04

Exhibit 1

Petition Number: 1411-SE-04

Subject Site Location: 20481 Horton Road

Petitioner: Horvath Communications LLC

Request: The petitioner is requesting approval of a Special Exception to allow a new Wireless Communication Service Facility in the AG-SF1: Agriculture / Single-Family Rural District (*Chapter 13: Use Table*).

Current Zoning: AG-SF1

Current Land Use: Single-Family Residential

Approximate Acreage: 6.19 acres+/-

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Application
4. Construction Plans

Staff Reviewer: Kevin M. Todd, AICP

Petition History

This petition is scheduled to receive a public hearing at the November 11, 2014 Board of Zoning Appeals (the "BZA") meeting.

If the Board of Zoning Appeals approves the requested Special Exception, then Development Plan approval by the Advisory Plan Commission would be required for the tower.

Property Location and Project Description

The subject property is approximately 6.19 acres in size and is located on the east side of Horton Road, approximately 900 feet south of 206th Street (the "Property"). The Property is zoned Agriculture-Single Family-1 (AG-SF1). Adjacent property to the north is zoned Single-Family 5 (SF-5); adjacent property to the west is zoned AG-SF1; and adjacent property to the east and south is zoned Chatham Hills PUD. Adjacent property in all direction is either residentially used or is zoned to be residentially used in the future (i.e. Chatham Hills). Wireless Communication Service Facilities are permitted by Special Exception



within the AG-SF1 zoning classification. The request is to allow a Wireless Communication Service Facility on the Property.

Project Description

In order to provide a certain level of wireless communication service within this area of Westfield, new antenna equipment is needed. There are no existing nearby co-location options that could accommodate the volume of equipment needed to affect the service level, so a new tower would be needed in order to install new equipment. The proposal is to install a new 175 feet tall monopole wireless communication tower and ancillary equipment building(s) on the Property. Proposed access to the tower and equipment would be within a private access and utility easement. The access drive would be an extension of the existing gravel drive, with direct access onto Horton Road.

The proposed site plan indicates space for up to four (4) concrete pads for equipment buildings. One of the pads is planned for an equipment building that would be approximately ten (10) feet in height and approximately 300 square-feet in area. The remaining pads would be for future use. The proposal indicates fencing and landscaping would be installed around the perimeter of the Property.

As proposed, the tower would be over 175 feet from any property line, which complies with the setback requirements of the Wireless Communication Service Facilities ordinance (Article 6.20). The tower would also be approximately 290 feet from the nearest building (which is the residential building on the Property).

If the Special Exception is approved through this request, this project would require Development Plan review and approval by the Advisory Plan Commission. All requirements of the City's Wireless Communication Service Facilities ordinance (Article 6.20).

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Special Exception. This petition is scheduled to receive its public hearing at the November 11, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Special Exceptions: The UDO (*Chapter 12: Definitions*) defines a "Special Exception" as "a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted".



Findings of Fact: A Special Exception may be approved under Indiana Code § 36-7-4-918.6 and the Westfield-Washington UDO (*Chapter 10: Processes and Permits, Article 10.11 Special Exceptions*) only upon a determination that:

1. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare;
2. The special exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area;
3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District;
4. Adequate public utilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services;
5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches designed as not to create an interference with traffic on surrounding rights-of-way;
6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan; and
7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements set forth, applicable to such Special Exception, will be met.

The Board of Zoning Appeals shall approve, approve with conditions, or deny Special Exceptions. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.



Recommendations

If the Board of Zoning Appeals is inclined to APPROVE the Special Exception, then the Department recommends approval of the findings set forth below, with the following conditions:

Recommended Conditions of Approval:

1. The tower be a monopole design;
2. The tower not exceed 175 feet in height; and,
3. The area around the tower be landscaped in a manner that is substantially similar to the submitted landscape plan (see Exhibit 4).

Recommended Findings for Approval:

1. *The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare:*

Finding: It is unlikely that allowing a Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. Wireless communication facilities are located nearby, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower would increase cell/wireless service in this area of Westfield.

2. *The Special Exception will: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed Special Exception should not have a negative impact on surrounding properties because: (i) the use is consistent with and compatible with the character of the surrounding area; (ii) the operation and design of the use are intended to mitigate the impact on surrounding properties; and (iii) the use is otherwise contemplated as appropriate in the AG-SF1 (Agriculture-Single Family Rural) District.

3. *The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district:*

Finding: The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The proposed operation and design of the use should mitigate potential impact on surrounding properties. The proposed tower would be setback at least as many feet from a property line as the tower is tall (in this case, 175 feet). As such, the use is compatible with



permitted uses of the AG-SF1 (Agriculture-Single Family Rural) District and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *Adequate public utilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:*

Finding: The use should have little or no impact on utilities, streets, drainage or other necessary facilities.

5. *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches designed as not to create an interference with traffic on surrounding rights-of-way:*

Finding: The Special Exception is expected to have a nominal increase, if any, in the number of trips to be generated beyond that of a typical residential or agriculturally utilized property. The use would share access to Horton Road with the existing residence. As a result, no traffic congestion is expected.

6. *The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan:*

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") does not address wireless communication facilities. The proposal neither frustrates nor further advances the vision of the Comprehensive Plan.

7. *The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements set forth, applicable to such Special Exception, will be met:*

Finding: The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The use and Property will otherwise comply with or exceed the applicable standards of the AG-SF1 (Agriculture-Single Family Rural) District and the Wireless Communication Service Facilities ordinance.



If the Board of Zoning Appeals is inclined to DENY the Special Exception, then the Department recommends approval of the following findings:

Recommended Findings for Denial:

1. *The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, or general welfare:*

Finding: It is unlikely that allowing a Wireless Communication Service Facility on the Property would be injurious to the public health, safety, morals, and general welfare of the community. Wireless communication facilities are located nearby, and there is no evidence of harm to the community as a result of those facilities. Adding a new tower would increase cell/wireless service in this area of Westfield.

2. *The Special Exception will: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area:*

Finding: It is possible the use and value of adjacent property would be affected in a substantially adverse manner. The proposed Special Exception may have a negative impact on surrounding properties because of general perceptions that living next to (or near) a wireless communication tower is undesirable. Those perceptions may influence potential future home-buyers and/or negatively impact adjacent property values.

3. *The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district:*

Finding: The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The proposed operation and design of the use should mitigate potential impact on surrounding properties. The proposed tower would be setback at least as many feet from a property line as the tower is tall (in this case, 175 feet). As such, the use is compatible with permitted uses of the AG-SF1 (Agriculture-Single Family Rural) District and potential conflicts resulting from other future and adjacent uses should be diminutive.

4. *Adequate public utilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services:*



Finding: The use should have little or no impact on utilities, streets, drainage or other necessary facilities.

5. *Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches designed as not to create an interference with traffic on surrounding rights-of-way:*

Finding: The Special Exception is expected to have a nominal increase, if any, in the number of trips to be generated beyond that of a typical residential or agriculturally utilized property. The use would share access to Horton Road with the existing residence. As a result, no traffic congestion is expected.

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Finding: The UDO contemplates the use within the AG-SF1 (Agriculture-Single Family Rural) District. The use and Property will otherwise comply with or exceed the applicable standards of the AG-SF1 (Agriculture-Single Family Rural) District and the Wireless Communication Service Facilities ordinance.